

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of
Aerojet-General Corporation :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of
Corporation Franchise Tax :
under Article 9A of the Tax Law
for the F/Y/E 11/30/72-11/30/74. :

State of New York
County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 7th day of July, 1980, he served the within notice of Decision by certified mail upon Aerojet-General Corporation, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

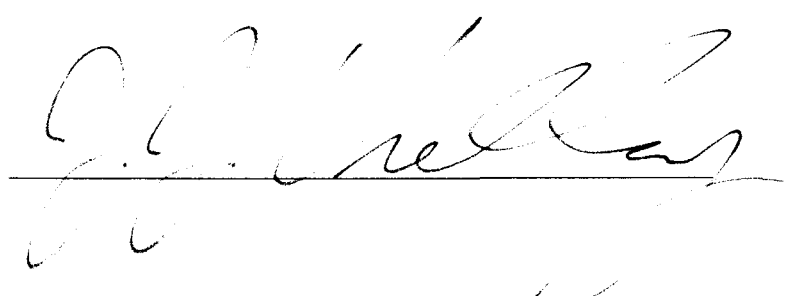
Aerojet-General Corporation
9100 East Flair Drive
El Monte, CA 91734

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this
7th day of July, 1980.

Deborah A Bank



STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :
of :
Aerojet-General Corporation :
AFFIDAVIT OF MAILING
for Redetermination of a Deficiency or a Revision :
of a Determination or a Refund of :
Corporation Franchise Tax :
under Article 9A of the Tax Law :
for the F/Y/E 11/30/72-11/30/74. :

State of New York
County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 7th day of July, 1980, he served the within notice of Decision by certified mail upon Yvonne E. Silver the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

CPA Yvonne E. Silver
c/o Aerojet-General Corporation
9100 E. Flair Drive
El Monte, CA 91734

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the representative of the petitioner herein and that the address set forth on said wrapper is the last known address of the representative of the petitioner.

Sworn to before me this
7th day of July, 1980.

Deborah A Bank

J. Vredenburg

STATE OF NEW YORK
STATE TAX COMMISSION
ALBANY, NEW YORK 12227

July 7, 1980

Aerojet-General Corporation
9100 East Flair Drive
El Monte, CA 91734

Gentlemen:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 1090 of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to:

NYS Dept. Taxation and Finance
Deputy Commissioner and Counsel
Albany, New York 12227
Phone # (518) 457-6240

Very truly yours,

STATE TAX COMMISSION

cc: Petitioner's Representative
Yvonne E. Silver
c/o Aerojet-General Corporation
9100 E. Flair Drive
El Monte, CA 91734
Taxing Bureau's Representative

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
AEROJET-GENERAL CORPORATION	:	DECISION
for a Redetermination of a Deficiency or for	:	
Refund of Franchise Tax on Business Corporations	:	
under Article 9-A of the Tax Law for the Fiscal	:	
Years Ending November 30, 1972, November 30,	:	
1973 and November 30, 1974.	:	

Aerojet-General Corporation, 9100 East Flair Drive, El Monte, California 91734, filed a petition for redetermination of a deficiency or for refund of franchise tax on business corporations under Article 9-A of the Tax Law for the fiscal years ending November 30, 1972, November 30, 1973 and November 30, 1974.

Petitioner requested that this matter be submitted to the State Tax Commission for a decision based upon the file as it is presently constituted.

ISSUES

I. Whether the property factor of the business allocation percentage used by the Audit Division based upon net book value of petitioner's tangible assets, instead of cost value, was proper.

II. Whether interest and dividend income from subsidiary and investment capital and capital gains received in other than the regular course of business were properly excluded as "other business receipts."

FINDINGS OF FACT

1. Aerojet-General Corporation (hereafter referred to as "Aerojet"), an Ohio corporation with headquarters located at El Monte, California, is a wholly owned subsidiary of the General Tire & Rubber Company. Its principal

business operations include aerospace design, development and manufacturing for the United States Government, and the manufacture of a range of industrial and commercial products. Aerojet rents facilities situated in Scarsdale, Garden City and New York City, New York, and at other locations in the United States.

2. The petitioner filed franchise tax returns for the fiscal years ending November 30, 1972, November 30, 1973 and November 30, 1974. As a result of a field audit covering the aforementioned tax periods, a Notice of Deficiency was issued on March 25, 1976, imposing additional franchise tax in the amount of \$15,437.00, including interest. Petitioner timely filed a petition for redetermination of said deficiency. On or about December 15, 1976, petitioner paid \$15,810.34, the amount stated in the Notice of Deficiency plus additional interest, under protest and now seeks a refund thereof.

3. The Notice of Deficiency is based upon:

(a) disallowance of the cost basis and using instead the net book value in connection with the property factor of business allocation percentages and

(b) exclusion of interest, dividends and gain on sale of assets as adjusted from other business receipts received in the regular course of business but included in the apportionable income.

4. Aerojet contends that the original cost closely conforms to the appraised fair market value of its real and tangible personal property used for insurance purposes. The following is a comparison of the historical cost, net book value and appraised value for purposes of casualty insurance:

	Historical Cost	Net Book Value	Appraised Ins. Value
11/30/74	\$174,011,234.00	\$63,204,018.00	\$202,509,974.00
11/30/73	183,980,691.00	67,014,403.00	188,969,680.00
11/30/72	182,318,475.00	66,356,413.00	179,551,918.00

5. The petitioner contends that since the cash is business capital, income related to the short term investment of this capital should be properly included in the business allocation percentage.

6. The petitioner did not identify "miscellaneous" receipts and account for their allocation.

CONCLUSIONS OF LAW

A. That the Audit Division properly based the property factor of the business allocation percentage on the "net book value" of petitioner's tangible assets within the intent and meaning of section 210.3(a)(1) of the Tax Law and section 4.13(b) of the Business Corporation Franchise Tax Regulations, now 20 NYCRR § 4-3.1(b), since petitioner has consistently used "net book value" in its computation of total capital.

B. The receipts from the sale of capital assets are not business receipts and are not included in the receipts factor of the business allocation percentage (section 4.23(b) of Business Corporation Tax Regulations, in effect during the years in issue, now 20 NYCRR 4.46(b).

C. That subsidiary income and investment income do not constitute business receipts and may not be included in the computation of the business allocation percentage (section 210.3(a)(3) of the Tax Law).

D. That since petitioner failed to identify "miscellaneous" receipts and account for their allocation, the Audit Division properly excluded same from the receipts factor.

E. That the petition of Aerojet-General Corporation is denied.

DATED: Albany, New York

JUL 07 1980

STATE TAX COMMISSION

James G. Sullivan
PRESIDENT

Thomas H. [unclear]
COMMISSIONER

Francis R. Kony
COMMISSIONER